

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

JOHN NOAKES

Plaintiff

v.

CASE WESTERN RESERVE  
UNIVERSITY,

Defendant

Case No. 1:21-cv-1776-PAB

Judge: BARKER

DECLARATION OF ANNE  
TAMASHASKY

Anne Tamashasky, does depose and state as follows:

1. I am Of Counsel at Engel & Martin, LLC. I am a member in good standing of the Ohio Bar and the Bar of this Court. Prior to working for Engel & Martin, I served as a prosecutor for over twenty years.
2. I am submitting this Affidavit in support of Plaintiff's Response to Case Western Reserve University's Motion for a Protective Order. (Doc#46.)
3. I am familiar with the investigations and other responses of Case Western Reserve University and Case Western Reserve University School of Medicine (collectively "CWRU") to the allegations that John Noakes committed sexual misconduct. I am also familiar with the investigations and other responses of CWRU to the allegations by John Noakes that he has been the victim of sexual harassment and retaliation. I have served as John Noakes' "advisor" during these investigations and all related proceedings.
4. I am aware that John Noakes was cleared of all charges that he violated the CWRU sexual misconduct policies. I am aware that Jane Roe, other CWRU students, and school administrators who were unhappy with the outcome began a campaign of intimidation and

harassment against John Noakes. This included, but was not limited to, the Jane Roe encouraging the creation of a committee of medical students to organize methods to intimidate, embarrass, harass, and punish John Noakes for participating in a Title IX investigation. On or about April 25, 2021, the student committee circulated a Class Survey online. This Class Survey mentioned John Noakes by name and indicated that it was “gauging levels of concern regarding gender-based violence...” The survey suggested that John Noakes should not remain in the School of Medicine. On May 5, 2021, students circulated a Petition encouraging their classmates to refuse to work with John Noakes and demanding that “the School of Medicine ought to take clear and decisive action by expelling [John Noakes].”

5. As his advisor, I was present during many of John Noakes’ meetings with representatives of the CWRU Title IX Office. In the spring of 2021, John Noakes specifically complained to appropriate persons at CWRU that Jane Roe and other students had engaged in a sustained pattern of conduct designed to embarrass, harass or punish John Noakes for engaging in protected activity.

6. He repeated this complaint in early August 2021, when school re-started, and again in an email to the school's Title IX Coordinator on August 31, 2021. These complaints were confirmed by an email from the Title IX Coordinator on August 31, 2021 stating, "I would like to meet with you to learn about the retaliation, harassment, and stalking that you are complaining about." The email is set forth here:

On Tue, Aug 31, 2021 at 1:54 PM Rachel Lutner <[rxl768@case.edu](mailto:rxl768@case.edu)> wrote:

[REDACTED]

As a first step, I would like to meet with you to learn about the retaliation, harassment and stalking that you are complaining about. We can meet in person or by Zoom. Let me know when you are available to do that so we can get something on the calendar. I look forward to hearing from you.

Very truly yours,

Rachel E. Lutner  
Senior Associate Vice President - Equity  
Case Western Reserve University  
[rachel.lutner@case.edu](mailto:rachel.lutner@case.edu)  
Equity - Main (216) 368-3066  
Equity - Direct (216) 368-6841

7. On November 8, 2021, John Noakes sent an email to the CWRU Title IX Coordinator confirming his request that CWRU initiate an investigation into retaliation and other conduct by Jane Roe. He wrote, in part, "the failure of CWRU to take action in response to my numerous complaints has caused me to be fearful..." The Email is set forth here:

From: [REDACTED]  
 Date: Mon, Nov 8, 2021 at 3:34 PM  
 Subject: Retaliation and NCD Violations  
 To: Rachel Lutner <[rxl768@case.edu](mailto:rxl768@case.edu)>, Anne Tamashasky <[tamashasky@engelandmartin.com](mailto:tamashasky@engelandmartin.com)>, Joshua Adam Engel <[engel@engelandmartin.com](mailto:engel@engelandmartin.com)>

Good afternoon, Ms. Lutner.

This email is to continue our conversation regarding NCD Violations and retaliation by [REDACTED] that I believe should be investigated.

Part of the information that I was addressing was provided in response to your request to demonstrate a pattern of intentional NCD violations by [REDACTED] since August of this year. I will reproduce this information below.

- On 8/9/2021, [REDACTED] walked into class several minutes late, walked up to me while I was with my mother. [REDACTED] stared me down then walked to another table across the lecture hall where she sat down. She later posted on Twitter that my mother was retaliating against her by intimidating her.
- On 8/25/2021, [REDACTED] stood at the bottom of the Northwest stairwell staring me down in concert with her friends.
- On 8/27/2021, [REDACTED] violated the no contact directive by sending a whole-class email in the middle of lecture, including to me.
- On 8/27/2021, [REDACTED] violated the no contact directive by walking down the Southwest stairwell, which was explicitly prohibited to her, as I was about to use it.
- On 8/30/2021, [REDACTED] sat in the middle of the lecture hall, despite being explicitly instructed to sit as far as possible to the Northeast side. After being instructed to "stay away from the other person as much as possible and sit on opposite sides of the classroom," [REDACTED] refused to move.
- On 8/30/2021, [REDACTED] sought to prevent me from using the Northwest stairwell by standing at the bottom.
- On 9/1/2021, [REDACTED] violated the no contact directive by standing unreasonably close to me at the top of the Southwest stairwell, and despite being instructed to "stay as far away from each other as possible" continued walking towards me.
- On 9/1/2021, [REDACTED] sought to prevent me from using the Northwest stairwell by standing at the bottom..
- On 9/20/2021, [REDACTED] violated the no contact directive by sending a whole-class email in the middle of lecture, including to me..
- On 10/19/2021, [REDACTED] sat in the middle of the seminar hall, despite explicitly being told to "sit on the far north side". Numerous seats at the north end of the lecture hall were available, even directly in front of her.

While I stated in our meeting that my goal was to demonstrate this pattern of NCD violations as intentional, after some thought I believe this goes further than violations of the NCD. While each act, alone, may be excusable in some way, together the acts constitute a pattern of conduct designed to intimidate me and retaliate against me for defending myself in the Title IX process.

In addition, she has made retaliatory posts to Instagram and to the CWRU M2's GroupMe, which I have attached below. I believe that the posts made to Instagram are designed to embarrass, harass or punish me for participating in proceedings related to her prior complaint that I engaged in sexual misconduct. I am aware that these posts do not mention me directly, but I am also aware that a precedent has been set that this is not necessary. Furthermore, these Instagram and GroupMe posts are designed to intimidate and embarrass me and any students that may attempt to support me. They do so by contributing to the campaign by her and friends to frame my previous "Not Responsible" finding as erroneous and to attach labels of mental illness to me.

Finally, the failure of CWRU to take action in response to my numerous complaints has caused me to be fearful. I am concerned that [REDACTED] has learned that she can violate the no contact directive with impunity and will be emboldened to take further actions to harass me or in retaliation for my role in prior Title IX processes.

8. On November 12, 2021, John Noakes sent an email to the CWRU Title IX Coordinator requesting that CWRU initiate an investigation into retaliation and other conduct by another medical student. The Email is set forth here:

On Fri, Nov 12, 2021 at 11:50 AM [REDACTED] wrote:  
Good afternoon, Ms. Lutner.

I would like to file a formal complaint of retaliation against [REDACTED], who has abused her powers and authority as [REDACTED] to intimidate, embarrass, and harass me in a campaign to punish me for defending myself in a previous Title IX process.

My complaint involves, but may extend past the following activities:

1. She was involved in the creation of a committee in the M1 class made to organize methods to intimidate, embarrass, harass, and punish me for participating in a Title IX investigation. She was also a self-appointed leader of this group.
2. She was involved in the creation and spreading of a survey made to encourage others with retaliatory motives to file Early Concern complaints against me so that I would be expelled from medical school.
3. She was also involved in the creation and spreading of a petition made to demand my expulsion from medical school. This petition also sought to attach labels of mental illness to me.
4. She removed me from the GroupMe which caused me to miss out on months of important CSR-related and curricular-related communications, especially in Blocks 4 and 5. Importantly, I missed out on many communications from professors regarding material present on tests and other class activities. Admission of her own wrongdoing is affirmed by her re-adding me to this GroupMe.

The above activities, and potentially others, were performed with the intent of intimidating, embarrassing, harassing, and punishing me for defending myself in a Title IX process. The failure of CWRUSOM administrators and the CWRU Office of Equity to take appropriate actions to prevent retaliation and harassment against me has emboldened [REDACTED] and others in the class with knowledge that they may continue to intimidate, embarrass, harass, and punish me with impunity.

My delay in reporting is because I did not know she had done these activities until facts from another investigation surfaced.

I ask that this retaliation be investigated and proper supportive measures be enacted.

Thank you,

9. As of the date of this Declaration, the investigations into Jane Roe's conduct has not been completed.
10. As of the date of this declaration, the investigation into the conduct by the other student has been completed, but the process remains open and no hearing has been scheduled.
11. According to CWRU's own policies, these investigations should have been completed months ago, if not longer. The CWRU Policy provides that "Complaints may take 60-75 business days to resolve." These investigations, thus, have taken far beyond the length of time indicated for the completion of the entire process described in the Revised Title IX Policy. These investigation have also taken far beyond the length of a typical school disciplinary investigation.
12. As counsel for John Noakes, I am aware that we served a subpoena on Jane Roe, a subpoena on the law firm acting as investigators, and three subpoenas on medical students seeking documents related to CWRU investigation and adjudication of his claims that he was the victim of retaliation. These subpoenas were issued to aid in this litigation. As a former prosecutor, the allegations that I would seek to "victimize" women, whether complainants, respondents, or witnesses, in matters related to sexual assault is highly offensive. The documents sought are relevant to both John Noakes' selective enforcement and deliberate indifference claims.
13. I have represented close to 100 students in school disciplinary matters. In my experience, permitting the discovery sought by the subpoenas will not interrupt and interfere with the investigations.
14. Based on my experience with CWRU, I believe that the school likely has an ulterior and improper motive in seeking this protective order. I believe that subpoena is likely to demonstrate that CWRU's investigation is inadequate and cursory. Two examples:

- a. John Noakes and I have asked that CWRU obtain all relevant documents in the possession, custody, and control of CWRU relevant to the investigation, including by conducting a search of relevant emails. CWRU has refused this request and, based on my review of draft investigative reports, this has not been done.
  - b. John Noakes and I have asked to receive and review recordings of witness interviews and/or contemporaneous notes by investigators. In many instances in a draft report, witness statements were merely summarized in a few short sentences. In other instances, witness statements were directly contradicted by available evidence. This has led me to be concerned that statements were improperly summarized, important information was excluded, or witnesses were never asked to explain contradictory evidence.
15. In my experience in school discipline cases, I would expect an equitable and thorough investigation to include all relevant materials. A diligent investigator, for example, would gather all potentially relevant documents, record all interviews, and then make that evidence available to the parties. Based on the materials I have been permitted to review, CWRU has not done this for the investigations into John Noakes' complaints. To the extent that relevant evidence may be obtained by the subpoenas that was not obtained by the investigators, the subpoenas are likely *to aid* in the adjudication of these matters by CWRU by allowing the parties to present additional relevant evidence to the fact-finder.

Pursuant to 28 U.S. Code § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 30th day of November 2022.

/s/ Anne Tamashasky

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Anne Tamashasky